REMARKS

Reconsideration of the rejections set forth in the Office Action mailed September 24, 2009, is respectfully requested. Claims 23 and 72-78 remain pending in this case.

Drawings

The drawings were objected to for allegedly failing to show a monolayer coil in the distal region of the elongate tubular member. Applicants respectfully traverse this objection. Applicants submit that Fig 4B, reproduced below, shows the monolayer coil as reference number 37. Applicants note that the specification describes inner layer extension 37 extending distally from inner layer 34. See Paras. [0058]-[0059]. These objections should therefore be withdrawn.

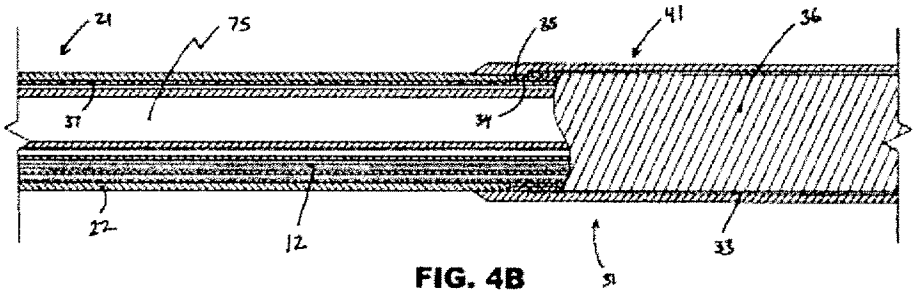


FIG. 4B

Art Rejections

Claims 23, and 72-76 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly not enabled for failure to provide description in the specification and figures which show how the invention is carried out. Applicants respectfully traverse this rejection. As discussed above,

Applicants submit that the monolayer helical coil extending from the first helical coil required in claim 23 is shown in Fig. 4B and described in the application as inner layer extension 37. See para. [0059] ("The inner layer 34 of the torque shaft extends distally beyond the outer two layers 35 and 36....To prevent the inner layer extension from "springing" out after the winding mandrel is removed, inner layer extension 37 may be annealed by conventional methods.").

Claims 23, and 72-76 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Fleicshhacker et al (U.S. Patent Publication No. 2001/0021831) in view of Hundertmark et al (U.S. Patent Publication No. 2002/0077595). Claims 77-78 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Fleicshhacker in view of Hundertmark et al in further view of Jorgensen (U.S. Patent Publication No. 2003/0105426). Applicants respectfully traverse this rejection.

The claims, as amended, are directed to a catheter having a multilayer torque cable in the proximal region and require "a monolayer helical coil in the distal region of the elongate tubular member, wherein the monolayer helical coil is an extension of the first helical coil [in the multilayer torque cable]." This feature allows for efficient torque transmission throughout the length of the catheter. The Office Action concedes that Fleicshhacker does not "teach or disclose a monolayer helical coil in the distal region of the elongate tubular member." The Office Action, relies on Fig. 8 of Hundertmark as allegedly teaching a monolayer helical coil in the distal region of an elongate tubular member that is an extension of the first helical coil. However, nowhere does Hundertmark teach or suggest a monolayer helical coil in the distal region that is an extension of a first helical coil in the elongate tubular member. On the contrary, as shown in Fig

9 (reproduced below) , Hundertmark teaches a method of joining a distal portion 22, containing the monolayer helical coil alleged by the Examiner, with a separate proximal portion 20 using a pair of sheaths 58 to form an integrated structure. See Hundertmark, para. [0033]

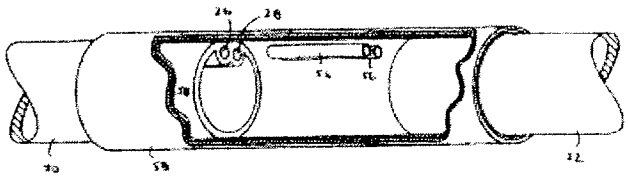


FIG 9

Thus, Hundertmark does not describe, a monolayer helical coil in the distal region that is an extension of the first helical coil in the proximal region as required by claim 23.

In fact, Hundertmark teaches away from a monolayer helical coil in the distal region that is an extension of the first helical coil in the proximal region as required by claim 23. See, *In re Gurley* 27 F.3d 551,553 (Fed. Cir. 1994). ("[I]n general, a reference will teach away if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant."). Here, as discussed above, Hundertmark, in describing the joining of a separate distal portion containing a monolayer helical coil to a separate proximal portion to create an integrated structure, teaches the exact opposite of the monolayer helical coil that is an extension of the first helical coil required in Applicants' invention. Nor would such a feature be suggested by Hundertmark because in Hundertmark's coronary sinus procedure, torque transmission capabilities are not desired. The coronary sinus catheter is designed to enter the coronary sinus, occlude the coronary sinus, and to deliver fluid distal to the occluding member. See Hundertmark, Abstract. There is no need for torque or any type of rotation. By

contrast, the catheter of the instant invention requires a multilayer torque cable wherein the torque transmission properties are maximized. See Petrick, para [0014]

Moreover, there is no motivation to combine Fleischhacker and Hundertmark. Specifically, the object of Fleischhacker's multi coil catheter design is to provide a catheter with very good torque transmitting characteristics. See Fleischhacker, Abstract, paras. [0014], [0015]. Conversely, Hundertmark is directed to a coronary sinus catheter which does not require torque capabilities to accomplish its function. In fact, torque capabilities add rigidity, which is to be avoided for Hundertmark's atraumatic tip. Hence, although Hundertmark and Fleischhacker can be *broadly* described as related (dealing with medical devices and catheters) the two are unrelated as to purpose and required characteristics. For example, coil 48 of Hundertmark is provided to supply hoop strength and kink-resistance, whereas the double coil structure of Fleischhacker is designed to provide high torque transfer. Thus, there would have been no reason to combine a flexible-tip device designed to enter the coronary sinus (where there is no need for rotation or to help push through anything and where maximum flexibility is required to avoid causing tissue damage) with a high torque transfer device, other than impermissible hindsight.

Thus, Fleicshhacker and Hundertmark cannot properly be combined. Further, even if combined, Hundertmark and Fleischhacker still do not reach the instant invention because neither teaches a monolayer helical coil in the distal region of the elongate tubular member, where the monolayer helical coil is an extension of the first helical coil in the multilayer torque cable, as required by claim 23.

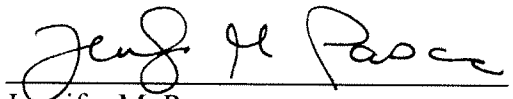
Claim 23 is therefore patentably distinct from the cited art. Each of claims 72-78 is dependent on claim 23 and therefore claims 72-78 are patentably distinct from the cited art for the same reasons applicable to claim 23. The rejections over Fleicshhacker and Hundertmark should therefore be withdrawn.

CONCLUSION

Favorable action on the merits of the claims is therefore earnestly solicited. If any issues remain, please contact Applicant's undersigned representative at (949) 760-9600. The Commissioner is hereby authorized to charge any additional fees that may be required to Deposit Account No. 50-2862.

Respectfully submitted,
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